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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,091	03/23/2004	Sayling Wcn	3313-1139PUS1	1876

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BIRCH STEWART KOLASCH & BIRCH  
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FALLS CHURCH, VA 22040-0747

EXAMINER
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MUSSELMAN, TIMOTHY A

ART UNIT	PAPER NUMBER
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3714

NOTIFICATION DATE	DELIVERY MODE
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10/15/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	Application No. 10/806,091	Applicant(s) WEN ET AL.	
	Examiner Timothy Musselman	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-8 and 10-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-8 and 10-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3714

## **DETAILED ACTION**

### ***Status of Claims***

With regard to the communications received on 6/7/2007 and 7/11/2007, claims 1, 3-8, and 10-15 are pending in this application. Claims 2 and 9 have been cancelled.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of the relevant portion of 35 U.S.C. 103 that forms the basis for the rejections made in this section of the office action;

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

**Claims 1, 3, 6-8, 10-12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pellegrino et al. (US 6,149,441) in view of Rothenberg (US 5,717,828).**

**Regarding claims 1 and 8,** Pellegrino discloses a networked educational system and methods that comprise a curriculum database that stores multimedia contents composed of text and pictures to be used as reference in a lesson. See col. 11: 10-22. Pellegrino further discloses wherein a user can select the curriculum content and a curriculum plan can be established (i.e. coded). See col. 15: 55-60. Pellegrino further discloses wherein the curriculum material (i.e. codes) can be transferred to a user and decoded and displayed at a remote site as web pages. See col. 8: 55-59. Pellegrino further discloses wherein the curriculum pages can be updated (i.e. synchronized). See col. 10: 50-67. Note that modification of the curriculum is in practice

Art Unit: 3714

modification of the pages the user interacts with. Pellegrino further discloses a remote communication module for providing collaboration on the curriculum via audio/video communications. See col. 26: 7-22. Although Pellegrino discloses assessing student performance (see col. 3: 55-59), there is no teaching wherein this comprises comparing speech waveforms of a user's speech to model waveforms. However, Rothenberg discloses a language teaching system that includes this feature. See col. 2: 29-63. It would have been obvious to one of ordinary skill in the art at the time of the invention to include this feature in the system of Pellegrino, since Pellegrino is a general networked interactive learning system, and incorporating the relevant limitations of Rothenburg into Pellegrino as a lesson would merely be a combination of known elements in the art and would not produce any unexpected results.

**Regarding claim 3**, Pellegrino further discloses a status list of registered users. See col. 8: 50-55.

**Regarding claim 6 and 10**, Pellegrino further discloses wherein the users are classified as teachers and students. See col. 3: 55-57.

**Regarding claims 7 and 11**, the limitation of the teachers being certified is not a limitation of the apparatus (claim 7). However, regarding claim 11, the apparatus of Pellegrino can be used by anybody, including certified teachers.

**Regarding claim 12**, Pellegrino further discloses wherein the user status comprises online status. See col. 4: 21-22. Pellegrino further discloses wherein the user status comprises reservation status. See col. 3: 47-48.

**Regarding claim 15**, Pellegrino further discloses wherein a user can establish a connection with a remote user using MS NetMeeting (see col. 26: 7-22), which is a well-known collaboration tool that allows for selection of users from a status list for real time conferencing.

Art Unit: 3714

**Claims 4-5 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pellegrino et al. (US 6,149,441) in view of Rothenberg (US 5,717,828) and in further view of McKelvie et al. (US 2003/0217096).**

**Regarding claims 4 and 13-14,** Pellegrino/Rothenberg teach of all of the features of parent claims 3 and 12 as described above, but fail to teach wherein the online status consists of busy, idle, or offline (claims 4 and 13). There is additionally no teaching wherein the reservation status consists of reserved or unreserved (claim 5), although it is noted that reserved is analogous to busy, and unreserved is analogous to idle, thus no distinction will be made between these limitations. However, McKelvie discloses a system directed toward user collaboration that includes these indicators. See paragraphs 0003 and 0402. It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize these features from the chatting system of McKelvie in the system of Pellegrino/Rothenberg (Pellegrino states in col. 26: 15-20 that the system uses third party collaboration software) in order to allow for improved communication between system users.

**Regarding claim 5,** Pellegrino further discloses that a user can send a reservation request (i.e. a connection request) to another user. See col. 26: 7-22.

### ***Response to Arguments***

Applicant's argument's dated 6/7/2007 have been fully considered but they are not persuasive. Applicant has presented no specific arguments, other than a general allegation that there would be no motivation to combine Pellegrino with the Rothenberg and McKelvie references. Examiner disagrees. Pellegrino is in fact a general networked educational system as applicant alleges. To combine specific educational program details as disclosed by Rothenberg with the general system of Pellegrino produces no unexpected results, as Pellegrino is designed for specific

Art Unit: 3714

educational programs. With regard to McKelvie, Pellegrino clearly discloses in col. 26: 9-22 that the system uses third party chatting programs (such as McKelvie), thus such a combination is reasonable.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy Musselman whose telephone number is (571)272-1814. The examiner can normally be reached on Mon-Thu 6:00AM - 4:30PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Ronald Laneau  
~~Supervisory~~ primary Examiner  
Art Unit 3714

9/26/07